

Senate Bill No. 1431

CHAPTER 738

An act to add Section 5058.4 to the Penal Code, and to add Section 1752.05 to the Welfare and Institutions Code, relating to corrections.

[Approved by Governor September 24, 2004. Filed
with Secretary of State September 24, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1431, Speier. Department of Corrections: code of conduct.

Existing law establishes the Department of Corrections for the confinement of persons who have committed crimes. Existing law also establishes the Department of the Youth Authority for the rehabilitation of certain persons who have committed offenses when they were under 18 years of age, as specified. Existing law creates the offices of the Director of Corrections and the Director of the Youth Authority to administer institutions within the jurisdiction of these departments.

This bill would require the directors of those departments to develop and implement disciplinary sanctions for misconduct by employees, as specified. The bill would also require the directors to ensure that employees who have reported improper governmental activities and who request services from the department are informed of the services available to them. The bill would require the departments to adopt a code of conduct, as specified. The bill would also require the departments to post the code of conduct in specified locations and to annually e-mail related information to departmental employees with e-mail access. The bill would include a statement of legislative findings and declarations regarding conduct in correctional facilities.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares the following:

(a) Investigations of the state's correctional facilities conducted by authorities and by the Legislature have revealed the existence of a "code of silence" that has threatened inmates, the integrity of correctional officers, security within the institutions, and public safety.

(b) Findings made by the federal court special master in the investigation of the Pelican Bay State Prison confirm that newly hired correctional officers who work for the Department of Corrections are often confronted by this code of silence, which forces good officers to

commit crimes or lie or cover up the abuses of their coworkers, and that the department has failed to address the situation in an effective manner.

(c) The whistleblower laws applicable to all employees of the state are insufficient to protect those workers at the Department of Corrections and the Department of the Youth Authority who choose to expose the wrongdoing of coworkers or their superiors, and therefore these employees must be provided additional protections to ensure their safety as well as their cooperation in the investigation of wrongdoing within the departments.

(d) In order to break the code of silence, the Department of Corrections and the Department of the Youth Authority must adopt a code of conduct that would provide uniform guidance to all workers at these departments, including their duty to report wrongdoing at their workplace, and the protection that may be provided to those who discharge this duty in good faith.

SEC. 2. Section 5058.4 is added to the Penal Code, to read:

5058.4. (a) The director shall provide for the development and implementation of a disciplinary matrix with offenses and associated punishments applicable to all department employees, in order to ensure notice and consistency statewide. The disciplinary matrix shall take into account aggravating and mitigating factors for establishing a just and proper penalty for the charged misconduct, as required by the California Supreme Court in *Skelly v. State Personnel Board* (1975) 15 Cal.3d 194. The presence of aggravating or mitigating factors may result in the imposition of a greater or a lesser penalty than might otherwise be mandated by the disciplinary matrix.

(b) The director shall adopt a code of conduct for all employees of the department.

(c) The director shall ensure that employees who have reported improper governmental activities and who request services from the department are informed of the services available to them.

(d) The department shall post the code of conduct in locations where employee notices are maintained. On July 1, 2005, and annually thereafter, the department shall send by electronic mail to its employees who have authorized access to electronic mail, the following:

- (1) Information regarding the code of conduct.
- (2) The duty to report misconduct.
- (3) How to report misconduct.
- (4) The duty to fully cooperate during investigations.
- (5) Assurances against retaliation.

SEC. 3. Section 1752.05 is added to the Welfare and Institutions Code, to read:



1752.05. (a) The director shall provide for the development and implementation of a disciplinary matrix with offenses and associated punishments applicable to all department employees, in order to ensure notice and consistency statewide. The disciplinary matrix shall take into account aggravating and mitigating factors for establishing a just and proper penalty for the charged misconduct, as required by the California Supreme Court in *Skelly v. State Personnel Board* (1975) 15 Cal.3d 194. The presence of aggravating or mitigating factors may result in the imposition of a greater or a lesser penalty than might otherwise be mandated by the disciplinary matrix.

(b) The director shall adopt a code of conduct for all employees of the department.

(c) The director shall ensure that employees who have reported improper governmental activities and who request services from the department are informed of the services available to them.

(d) The department shall post the code of conduct in locations where employee notices are maintained. On July 1, 2005, and annually thereafter, the department shall send by electronic mail to its employees who have authorized access to electronic mail, the following:

- (1) Information regarding the code of conduct.
- (2) The duty to report misconduct.
- (3) How to report misconduct.
- (4) The duty to fully cooperate during investigations.
- (5) Assurances against retaliation.

